

ESTTA Tracking number: **ESTTA590388**

Filing date: **03/03/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Threshold Enterprises Ltd.
Granted to Date of previous extension	03/02/2014
Address	23 Janis Way Scotts Valley, CA 95066 UNITED STATES

Attorney information	Jeremy McLaughlin Arnold & Porter LLP Three Embarcadero Center 7th Floor San Francisco, CA 94111 UNITED STATES trademarkdocketing@aporter.com, jeremy.mclaughlin@aporter.com, monty.agarwal@aporter.com, bryan.gresham@aporter.com Phone:(415) 471-3100
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Applicant Information

Application No	85727403	Publication date	09/03/2013
Opposition Filing Date	03/03/2014	Opposition Period Ends	03/02/2014
Applicant	Miller, Michael L. 612 E. Tana Tara Circle, #300 Sioux Falls, SD 57108 USX		


Goods/Services Affected by Opposition

Class 005. First Use: 2012/08/03 First Use In Commerce: 2012/08/03 All goods and services in the class are opposed, namely: Electrolyte replacement solutions; Nutritional supplements for humans to increase energy
Class 032. First Use: 2012/08/03 First Use In Commerce: 2012/08/03 All goods and services in the class are opposed, namely: Beauty beverages, namely, fruit juices and energy drinks containing nutritional supplements; Energy drinks; Energy drinks enhanced with electrolytes; Non-alcoholic drinks, namely, energy shots; Sports drinks; Sports drinks containing electrolytes; Sports drinks enhanced with vitamins and electrolytes; Sports drinks, namely, energy drinks; Sports drinks, namely, performance drinks; Sports drinks, namely, recovery drinks

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3746446	Application Date	06/26/2009
Registration Date	02/09/2010	Foreign Priority Date	NONE
Word Mark	LIFE FORCE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1989/11/00 First Use In Commerce: 1989/11/00 dietary and nutritional supplements		

Attachments	77769286#TMSN.jpeg(bytes) Threshold Opp. to L.I.F.E. (85727403).pdf(139720 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jeremy M. McLaughlin/
Name	Jeremy McLaughlin
Date	03/03/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 85/727,403
Filed September 12, 2012
Mark L.I.F.E.
Published in the Official Gazette on September 3, 2013

Threshold Enterprises Ltd.,)	
)	
Opposer,)	
)	Opposition No. _____
vs.)	
)	
Michael L. Miller)	
)	
Applicant.)	
_____)	

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

In the matter of U.S. Trademark Application Serial No. 85/727,403 (“Serial No. 85/727,403”) for the mark L.I.F.E., in the name of Michael L. Miller, an individual (“Applicant”), which was published for opposition in the Official Gazette on September 3, 2013. Threshold Enterprises Ltd. (“Threshold Enterprises”), a corporation of Delaware with its principal place of business at 23 Janis Way, Scotts Valley, California 95066, believes it will be damaged by the registration of the mark in Serial No. 85/727,403 and hereby opposes the same, in accordance with Section 13 of the Trademark (Lanham) Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, Threshold Enterprises alleges as follows:

Notice of Opposition
Serial No. 85/727,403

1. On information and belief, applicant is an individual residing at 612 E. Tana Tara Circle, #300, Sioux Falls, South Dakota 57108.

2. Applicant filed Serial No. 85/727,403 on September 3, 2012, seeking registration of L.I.F.E. for “Electrolyte replacement solutions; Nutritional supplements for humans to increase energy” in International Class 05 and for “Beauty beverages, namely, fruit juices and energy drinks containing nutritional supplements; Energy drinks; Energy drinks enhanced with electrolytes; Non-alcoholic drinks, namely, energy shots; Preparations for making beverages, namely, an additive for alcoholic drinks; Sports drinks; Sports drinks containing electrolytes; Sports drinks enhanced with vitamins and electrolytes; Sports drinks, namely, energy drinks; Sports drinks, namely, performance drinks; Sports drinks, namely, recovery drinks” in International Class 32.

3. Threshold Enterprises is the owner of incontestable U.S. Trademark Registration No. 3,746,446 for LIFE FORCE for “dietary and nutritional supplements.” This registration is valid, subsisting, uncanceled and conclusive evidence of Threshold Enterprises’ exclusive right to use LIFE FORCE in commerce or in connection with the goods specified in the registration.

4. Since at least twenty-two years prior to applicant’s filing date for Serial No. 85/727,403, Threshold Enterprises adopted and has continuously used its LIFE FORCE mark in connection with dietary and nutritional supplements. LIFE FORCE is a prominent national brand, with products available nationwide in all major markets.

5. Furthermore, Threshold Enterprises has adopted and used numerous other marks containing LIFE FORCE in connection with health and nutritional products. Current products in its Life Force family of Products include a variety of nutritional supplements and health products

in tablets, capsules, and powders. These include:

LIFE FORCE GREEN MULTIPLE

LIFE FORCE MULTIPLE

LIFE FORCE MULTIPLE, NO IRON

WOMEN'S LIFE FORCE MULTIPLE

MEN'S LIFE FORCE MULTIPLE

6. Threshold Enterprises has invested substantial amounts of time, effort and money in developing, marketing, promoting and protecting its LIFE FORCE trademark throughout the United States in the field of dietary and nutritional supplements. As such, in addition to the protection afforded Threshold Enterprises by its federal trademark registration of LIFE FORCE, Threshold Enterprises has extensive, non-registered statutory and common law rights in and to LIFE FORCE.

7. Applicant has no license, consent or permission from Threshold Enterprises to use or register L.I.F.E..

8. Applicant's mark so resembles Threshold Enterprises' LIFE FORCE that it is likely to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Trademark (Lanham) Act of 1946, 15 U.S.C. §1052(d); and more particularly, applicant's mark and use thereof are likely to cause confusion in, or to cause mistake by, or to deceive the trade and purchasing public into believing that the goods/services in Serial No. 85/727,403 originate with or are affiliated with Threshold Enterprises, or otherwise are authorized, licensed or sponsored by Threshold Enterprises.

9. By reasons of the foregoing, Threshold Enterprises will be gravely damaged by

Notice of Opposition
Serial No. 85/727,403

the registration of L.I.F.E. for the goods in Serial No. 85/727,403, because registration of that mark would be in violation of Threshold Enterprises' trademark rights.

WHEREFORE, Threshold Enterprises prays that this Notice of Opposition be sustained in favor of Threshold Enterprises and that Serial No. 85/727,403 be denied registration.

Notice of Opposition
Serial No. 85/727,403

You are hereby authorized to deduct the \$300 fee for filing this Opposition, and any additional fees necessary to process this Notice, from Deposit Account No. 50-2387 in the name of Arnold Porter LLP.

Respectfully submitted,

THRESHOLD ENTERPRISE LTD.

Dated: March 3, 2104

/Jeremy McLaughlin/

Jeremy McLaughlin
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Attorneys for Opposer

PROOF OF SERVICE

I am over eighteen years of age and not a party to this action. I am employed in San Francisco, California. My business address is Three Embarcadero Center, 10th Floor, San Francisco, CA 94111. I am readily familiar with the practice of this office for collection and processing of correspondence for mail delivery, and they are deposited that same day in the ordinary course of business.

On March 3, 2014, I served the following document(s):

NOTICE OF OPPOSITION

I served the document(s) on the following person(s):

Brad D. Rose
Teresa Lee
Pryor Cashman LLP
7 Times Square
New York, NY 10036

- ☒ (BY MAIL) by causing a true and correct copy of the above to be placed in the United States Mail at San Francisco, California in sealed envelope(s) with postage prepaid, addressed listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: March 3, 2014

Signature: _____/s/_____

Type or Print Name: Bryan Jay Gresham